

REMARKS

In the instant Office Action, claims 12-15 are listed as pending. All claims stand rejected.

Applicant is grateful for the granting of the Request for Continued Examination and for the entry of amendments to the claims as per the submission filed on March 18, 2004.

Claims 12-15 are alleged to be unpatentable under 35 U.S.C. 103(a) over Ramwell et al. U.S. Patent No. 5,002,965. The Examiner notes that the ginkgolides of Ramwell are used in preventing or reducing reperfusion injury in organ transplantation. The Examiner further notes that Applicant's intended uses of the compositions comprising ginkgolides for inhibiting membrane expression of a benzodiazepine receptor, inhibiting glucocorticoid release or elevating ACTH levels do not distinguish the claims from Ramwell since "product claims are not limited by an intended use." The Examiner finally notes that In re Dillon, 16 USPQ2D 1897 at 1900 (CAFC 1990) "a new utility for an old and well-known composition does not render that composition new."

Applicant respectfully points out that in amendments entered March 18, 2004 the intended uses of the ginkgolide compositions were limited by their intended use in a patient secreting a high level of one or more glucocorticoids suffering from Cushings syndrome, stress-induced hypercortisolism or brain aging.

Solely in response to the instant Office Action, Applicant cancels pending claims 12-15 without waiver or prejudice and submits new claims 16-30. Support for the use of the ginkgolides and compositions comprising ginkgolides of claims 16, 17, 21, 22, 26 and 27 can be found on page 12 lines 11-26, taken together with disclosure on page 6 line 3 to page 8 line 4. Support for the particular ginkgolides recited in claims 18-20, 23-25 and 28-30 is found on page 6 lines 3-8 and page 7 line 9 to page 8 line 4.

Applicant submits that new Claims 16-30, now directed to methods of treating Cushings syndrome, stress-induced hypercortisolism or brain aging in a patient or in a patient secreting a high level of one or more glucocorticoids with compositions comprising ginkgolides are sufficiently distinguished from the claims of Ramwell, which are directed to a method of preventing or reducing reperfusion injury in organs by the addition of ginkgolides alone. Applicant submits that Ramwell does not teach or suggest a method of treating Cushings syndrome, stress-induced hypercortisolism or brain aging in a patient secreting a high level of one or more glucocorticoids with an effective amount of ginkgolides.

Applicant submits that new Claims 16-30 are in a condition for allowance. Reconsideration of the instant Office Action and allowance of all pending claims are respectfully requested. Prompt and favorable action is solicited.

Date: Dec 10, 2004

Respectfully submitted,

Pamela C Ball

Pamela C. Ball
Agent for Applicant
Reg. No. 53,963

Biomeasure, Incorporated
27 Maple Street
Milford, MA 01757-3650
(508) 478-0144